

Executive Summary – Enforcement Matter – Case No. 46894
Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
RN105384739
Docket No. 2013-0990-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Northshore Harbor WWTP, located at 10000 Spur 294, at the intersection of Spur 294 and County Road 3190 Southeast, near Corsicana, Navarro County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 15, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,250

Amount Deferred for Expedited Settlement: \$2,250

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,500

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$4,500

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

Compliance History Classifications:

Person/CN - N/A

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 19, 2013

Executive Summary – Enforcement Matter – Case No. 46894
Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
RN105384739
Docket No. 2013-0990-MWD-E

Date(s) of NOE(s): April 15, 2013

Violation Information

1. Failed to obtain authorization to discharge wastewater associated with a wastewater treatment facility. Specifically, the previous permit expired September 1, 2012 and the Respondents continued to operate the Facility without authorization, [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.42(a)]

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondents to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondents to:
 - a. Immediately, and until such time that authorization to operate is obtained, or until 330 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0014865001;
 - b. Within 30 days, submit an administratively complete permit application
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;
 - d. Within 45 days, submit written certification of compliance with Ordering Provisions a. and b.; and
 - e. Within 330 days, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 46894
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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: Joseph F. Banco, Chief Financial Officer, Northshore Harbor Sewer
Company, LLC, 10000 Spur 294, Corsicana, Texas 75109
Joseph F. Banco, Chief Financial Officer, Allegheny Development, LLC, 1251 Waterfront
Place, Pittsburgh, Pennsylvania 15222

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0990-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondents:	Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
Payable Penalty Amount:	Nine Thousand Dollars (\$9,000)
SEP Amount:	Four Thousand Five Hundred Dollars (\$4,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up
Location of SEP:	Navarro County; Trinity River Basin; Trinity Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondents to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondents shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Clean-Up* program as set forth in an agreement between the Third-Party Administrator and TCEQ. The Third-Party Administrator shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The

Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
Agreed Order - Attachment A

SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondents certify that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondents shall contribute at least the SEP Offset Amount to the Third-Party Administrator named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondents must contribute the SEP amount to the Third-Party Administrator. Respondents shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondents shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Administrator. Respondents shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondents do not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondents shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondents must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondents shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondents may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondents under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES

Assigned PCW

6-May-2013

21-May-2013

Screening

16-May-2013

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC

Reg. Ent. Ref. No. RN105384739

Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 46894

Docket No. 2013-0990-MWD-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 1

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Cheryl Thompson

EC's Team Enforcement Team 3

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$11,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

0.0% Enhancement

Subtotals 2, 3, & 7 \$0

Notes

No adjustment for compliance history.

Culpability

No

0.0% Enhancement

Subtotal 4 \$0

Notes

The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$0

Economic Benefit

Total EB Amounts \$914

Approx. Cost of Compliance \$10,000

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$11,250

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$11,250

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$11,250

DEFERRAL

20.0%

Reduction

Adjustment -\$2,250

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$9,000

Screening Date 16-May-2013

Docket No. 2013-0990-MWD-E

PCW

Respondent Allegheny Development, LLC and Northshore Harl

Policy Revision 3 (September 2011)

Case ID No. 46894

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105384739

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-May-2013

Docket No. 2013-0990-MWD-E

PCW

Respondent Allegheny Development, LLC and Northshore Harbor Sewer Co

Policy Revision 3 (September 2011)

Case ID No. 46894

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105384739

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 305.42(a)

Violation Description

Failed to obtain authorization to discharge wastewater associated with a wastewater treatment facility. Specifically, the previous permit expired September 1, 2012 and the Respondents continued to operate the Facility without authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 9

257 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Nine monthly events are recommended, from September 1, 2012 (expiration date of the permit) to May 16, 2013 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$914

Violation Final Penalty Total \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

Economic Benefit Worksheet

Respondent Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
Case ID No. 46894
Req. Ent. Reference No. RN105384739
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	1-Sep-2012	30-Jun-2014	1.83	\$914	n/a	\$914
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit. The date required is the date the permit expired and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$914

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEO Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604145615, RN105384739, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604145615, Allegheny Development, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN105384739, NORTHSHORE HARBOR WWTP **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 10000 Spur 294 at the intersection of Spur 294 and County Road 3190 southeast, near Corsicana in Navarro County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER AGRICULTURE NON PERMITTED ID NUMBER

R04105384739

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: May 20, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 20, 2008 to May 20, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Cheryl Thompson

Phone: (817) 588-5886

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Published Compliance History Report for CN604145615, RN105384739, Rating Year 2012 which includes Compliance History (CH) components from May 20, 2007, through May 20, 2013.

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEO Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604315689, RN105384739, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604315689, Northshore Harbor Sewer Company, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN105384739, NORTSHORE HARBOR WWTP **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 10000 Spur 294 at the intersection of Spur 294 and County Road 3190 southeast, near Corsicana in Navarro County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

WASTEWATER AGRICULTURE NON PERMITTED ID NUMBER

R04105384739

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: May 20, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 20, 2008 to May 20, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Cheryl Thompson

Phone (817) 588-5886

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Published Compliance History Report for CN604315689, RN105384739, Rating Year 2012 which includes Compliance History (CH) components from May 20, 2007, through May 20, 2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ALLEGHENY DEVELOPMENT,
LLC AND NORTHSHORE
HARBOR SEWER COMPANY,
LLC
RN105384739

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-0990-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC ("Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents together stipulate that:

1. The Respondents own and operate a wastewater treatment facility located at 10000 Spur 294, at the intersection of Spur 294 and County Road 3190 southeast, near Corsicana in Navarro County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about April 20, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC

DOCKET NO. 2013-0990-MWD-E

Page 2

6. An administrative penalty in the amount of Eleven Thousand Two Hundred Fifty Dollars (\$11,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Four Thousand Five Hundred Dollars (\$4,500) of the administrative penalty and Two Thousand Two Hundred Fifty Dollars (\$2,250) is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents to pay all or part of the deferred penalty. Four Thousand Five Hundred Dollars (\$4,500) shall be conditionally offset by the Respondents completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondents agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondents are alleged to have failed to obtain authorization to discharge wastewater associated with a wastewater treatment facility, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE § 305.42(a), as documented during an investigation conducted on February 19, 2013. Specifically, the previous permit expired September 1, 2012 and the Respondents continued to operate the Facility without authorization.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC

DOCKET NO. 2013-0990-MWD-E

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IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC, Docket No. 2013-0990-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Jurisdiction and Stipulations, Section I, Paragraph 6 above, Four Thousand Five Hundred Dollars (\$4,500) of the assessed administrative penalty shall be offset with the condition that the Respondents implement the SEP defined in Attachment A, incorporated herein by reference. Respondents obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement
4. It is further ordered that the Respondents shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, and until such time that authorization to operate is obtained, or until 330 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0014865001;
 - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application, in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Application Review and Processing Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 4.a. and 4.b., in accordance with Ordering Provision No. e. below; and
- e. Within 330 days after the effective date of this Agreed Order, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

- 5. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 6. If the Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC

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shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis
For the Executive Director

4/14/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

3/27/14
Date

Joseph F. Banco
Name (Printed or typed)
Authorized Representative of
Allegheny Development, LLC

CFO
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Marie
For the Executive Director

4/14/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Joseph F. Banco
Signature

3/27/14
Date

Joseph F. Banco
Name (Printed or typed)
Authorized Representative of
Northshore Harbor Sewer Company, LLC

CFD
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-0990-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondents:	Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
Payable Penalty Amount:	Nine Thousand Dollars (\$9,000)
SEP Amount:	Four Thousand Five Hundred Dollars (\$4,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Abandoned Tire Clean-Up
Location of SEP:	Navarro County; Trinity River Basin; Trinity Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondents to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondents shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Texas Association of Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Clean-Up* program as set forth in an agreement between the Third-Party Administrator and TCEQ. The Third-Party Administrator shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project. The

Allegheny Development, LLC and Northshore Harbor Sewer Company, LLC
Agreed Order - Attachment A

SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondents certify that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondents shall contribute at least the SEP Offset Amount to the Third-Party Administrator named above and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondents must contribute the SEP amount to the Third-Party Administrator. Respondents shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

Concurrent with the payment of the SEP amount, Respondents shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Administrator. Respondents shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondents do not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Respondents shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondents must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondents shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondents may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondents under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.